

REMARKS/ARGUMENTS

In response to the Office Action dated June 10, 2004, claims 1 and 2 are amended. Claims 1-5 are now active in this application. No new matter has been added.

The indication that claims 2-5 would be allowable if rewritten to overcome noted indefiniteness and in independent form including all the limitations of the base claim and any intervening claims is acknowledged and appreciated.

REJECTION OF CLAIMS UNDER 35 U.S.C. § 112, SECOND PARAGRAPH

Claims 1-5 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. In support of this position, the Examiner identifies “hood ledge” at line 11 of claim 1 and line 3 of claim 2 as lacking clear antecedent basis. By this response, the noted points of indefiniteness have been appropriately addressed by eliminating the non-sequiturs. Therefore, it is respectfully urged that the rejection be withdrawn.

REJECTION OF CLAIMS UNDER 35 U.S.C. § 102

Claim 1 is rejected under 35 U.S.C. § 102(e) as being anticipated by Emori et al. (USPN 6,715,573).

To expedite prosecution, claim 1 is amended to include the feature of the present invention in which each of hood ledges (3) is connected at its front end to a side rail (4) through a mounting member (5) (page 4 lines 2-4).

In Emori et al., a hood-ridge panel (11) is formed outside and above a side member (10). It is apparent that the hood ridge panel is joined to the side member at transversely inner edge of

the panel, continuously from the front end thereof to the rear end thereof (See Fig 1 and col. 5 line 57-65).

The factual determination of lack of novelty under 35 U.S.C. § 102 requires the identical disclosure in a single reference of each element of a claimed invention such that the identically claimed invention is placed into possession of one having ordinary skill in the art. *Helifix Ltd. v. Blok-Lok, Ltd.*, 208 F.3d 1339, 200 U.S. App. LEXIS 6300, 54 USPQ2d 1299 (Fed. Cir. 2000); *Electro Medical Systems S.A. v. Cooper Life Sciences, Inc.*, 34 F.3d 1048, 32 USPQ2d 1017 (Fed. Cir. 1994).

In view of the above noted different between the structure now recited in amended independent claim 1 vis-à-vis the structure of Emori et al, it is clear that Emori et al. does not now identically describes the claimed inventions within the meaning of 35 U.S.C. § 102. *Minnesota Mining & Manufacturing Co. v. Johnson & Johnson Orthopaedics Inc.*, 976 F.2d 1559, 24 USPQ2d 1321 (Fed. Cir. 1992); *Kloster Speedsteel AB v. Crucible Inc.*, 793 F.2d 1565, 230 USPQ 81 (Fed. Cir. 1986). Consequently, withdrawal of the rejection of claim 1, as amended, under 35 U.S.C. § 102(e), as well as the allowance of claims 1-5, as amended. is respectfully solicited.

CONCLUSION

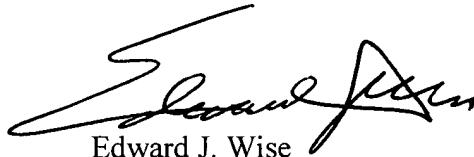
Accordingly, it is urged that the application, as now amended, is in condition for allowance, an indication of which is respectfully solicited. If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, Examiner is requested to call Applicants' attorney at the telephone number shown below.

10/775,191

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY

A handwritten signature in black ink, appearing to read "Edward J. Wise", with a stylized flourish at the end.

Edward J. Wise
Registration No. 34,523

600 13th Street, NW
Washington, DC 20005-3096
(202) 756-8000 EJW/dmd
DATE: September 9, 2004
Facsimile: (202) 756-8087